



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,095	10/10/2003	Brycc C. Waggoner	STD 1200 PA/41213.551	5499

7590 11/21/2005

DINSMORE & SHOHL LLP  
One Dayton Centre  
Suite 500  
One South Main Street  
Dayton, OH 45402-2023

EXAMINER

NORDMEYER, PATRICIA L

ART UNIT PAPER NUMBER

1772

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/685,095

**Applicant(s)**

WAGGONER ET AL.

**Examiner**

Patricia L. Nordmeyer

**Art Unit**

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Withdrawn Rejections***

1. The 35 U.S.C. 102(b) rejection of claims 1 – 8, 11 and 13 – 20 as anticipated by Attia et al. in the office action dated May 27, 2005 is withdrawn due to Applicant's arguments in the response dated September 28, 2005.

2. The 35 U.S.C. 103 rejection of claims 9 and 21 over Attia et al. in view of Charles et al. in the office action dated May 27, 2005 is withdrawn due to Applicant's arguments in the response dated September 28, 2005.

3. The 35 U.S.C. 103 rejection of claims 10, 12 and 22 over Attia et al. in view of Huddleston et al. in the office action dated May 27, 2005 is withdrawn due to Applicant's arguments in the response dated September 28, 2005.

### ***New Rejections***

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1772

5. Claims 1 – 8, 10 – 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Attia et al. in view of Haas (USPN 5,785,354).

Attia et al. disclose a patient wristband form (Column 3, lines 38 – 40; Figure 1, #10) comprising a transparent ply layer having an upper surface and a lower surface (Column 3, lines 46 – 47; Figure #13) made of film material (Column 3, lines 46 – 47), a release ply having an upper surface and lower surface (Column 4, lines 16 – 17; Figure 3, #23) wherein said release ply having a release coating on said upper surface of said release ply (Column 4, lines 19 – 20; Figure 3, #28) and wherein said transparent ply is removably mounted on said upper surface of said release ply by said pressure sensitive coating (Column 4, line 59; Figure 3, #18), a die cut in said transparent ply defining an elongated wristband (Column 3, lines 55 – 57) and a die cut in said transparent ply defining an overlamine label (Column 3, lines 61 – 64), said label being sized to cover at least a part of said central portion of said elongated wristband so as to cover indicia printed on said opaque coating (Column 5, lines 46 – 50) as in claims 1, 11 and 13. With regard to claims 2 and 14, the release ply is substantially larger than said transparent ply and further comprises a paper ply having an upper surface and a lower surface wherein said lower surface of said paper ply has a pressure sensitive adhesive coating which is used to mount the paper ply on the release ply (Column 4, lines 16 – 26). The form contains one or more labels defined by die cuts in the paper ply (Figure 10), the transparent ply is die cut to define one or more additional labels (Figure 10) and a plurality of colored labels that may be affixed to said elongated wristband (Figure 3, #16; Column 3, lines 46 – 47) as in claims 3, 4, 6, 15, 16 and 18. As in claims 5 and 17, the pressure sensitive adhesive coating on said lower surface of said

Art Unit: 1772

transparent ply is pattern coated such that are beneath said elongated wristband central portion is free of adhesive (Figure 4, #22). With regard to claims 7 and 19, the transparent ply and paper ply are directly adjacent each other to provide a patient wristband of substantially uniform thickness (Column 8, lines 1 – 15), whereby said form may advantageously be printed by means of a laser printer or an ink jet printer (Column 3, lines 48 – 51). The release layer defines a perforation line extending there across between said top ply and said paper ply (Column 5, lines 1 – 9) as in claims 8 and 20. However, Attia et al. fail to disclose an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband, an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband comprising a coating of a white, opaque ink and the transparent ply comprising a ply of substantially clear polyester film material.

Haas teaches an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband made of a white adhesive material (Column 9, lines 10 – 12; Column 10, lines 1 - 5) and the transparent ply comprising a ply of substantially clear polyester film material (Column 9, lines 12 – 14; Column 10, lines 11 – 14) for the purpose of having a surface that absorbs the ink to form a display with regard to the status of the user (Column 8, lines 44 – 50).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband comprising a coating of a white, opaque ink

Art Unit: 1772

and the transparent ply comprising a ply of substantially clear polyester film material in Attia et al. in order to have a surface that absorbs the ink to form a display with regard to the status of the user as taught by Haas.

With regard to the opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband comprising a coating of a white, opaque ink in claims 10 and 22, the prior art element, the opaque white adhesive layer formed on the polyester film (Column 9, lines 10 – 12; Column 10, lines 1 - 5) is a structural equivalent of the corresponding element disclosed in the specification, the receiving area formed with a coating of a white opaque ink. That is, the prior art element performs the function, the ability of the wristband to have an area for printing of information, specified in substantially the same manner as the function is performed by the corresponding element, the white ink layer, described in the specification. MPEP 2183.

6. Claims 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Attia et al. in view of Haas as applied to claims 1 – 8, 10 – 20 and 22 above, and further in view of Charles et al.

Attia et al., as modified with Haas, disclose a patient wristband form comprising a transparent ply layer having an upper surface and a lower surface made of film material, a release ply having an upper surface and lower surface wherein said release ply having a release coating on said upper surface of said release ply and wherein said transparent ply is removably

Art Unit: 1772

mounted on said upper surface of said release ply by said pressure sensitive coating, a die cut in said transparent ply defining an elongated wristband, an opaque coating on said upper surface of said transparent ply in a central portion of said elongated wristband and a die cut in said transparent ply defining an overlamine label, said label being sized to cover at least a part of said central portion of said elongated wristband so as to cover indicia printed on said opaque coating. However, the modified Attia et al. fail to disclose said transparent ply further defines one or more circular cut holes in said elongated wristband adjacent each end thereof, whereby said elongated wristband may be secured in place by a clasp, which engages one hole at each end of the wristband.

Charles et al. disclose a wristband (Column 1, lines 12 – 17) with a transparent ply (Column 9, lines 18 – 20) that further defines one or more circular cut holes (Figure 1a, #18 and 16) in said elongated wristband (Figure 1a, #4) adjacent each end thereof (Figure 1a, #6 and 8; Column 9, lines 23 – 26), whereby said elongated wristband may be secured in place by a clasp, which engages one hole at each end of the wristband (Column 9, lines 26 – 29; Figure 6a) for the purpose of having an identification that is easy to use, easy to apply while being tamper-resistant (Column 1, lines 6 – 11).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided with a transparent ply that further defines one or more circular cut holes in said elongated wristband adjacent each end thereof, whereby said elongated wristband may be secured in place by a clasp, which engages one hole at each end of the

Art Unit: 1772

wristband in the modified Attia et al. in order to have an identification that is easy to use, easy to apply while being tamper-resistant as taught by Charles et al.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1 - 22 have been considered but are moot in view of the new ground(s) of rejection. However, since prior art that was previously applied is being used in the above rejections, the arguments will be responded to below.

In response to Applicant's argument that the Attia et al. reference fails to disclose a transparent ply having a portion with an opaque coating, please see the newly presented rejection above.

In response to Applicant's argument that Attia et al. doesn't disclose an overlaminated label, it is admitted in the response on page 2 that "the '618 patent uses somewhat complicated form construction to accomplish overlamination". While the form used by Attia et al. is more complicated than the method being used by the Application, overlamination is still occurring in the patient wristband. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., die cutting from the top ply) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). There is no



Art Unit: 1772

specification that the overlamine label has to be from a top ply, just that it covers the indicia printed on central portion.

In response to the Applicant's arguments with regard to the Huddleston et al. and Charles et al. references, please see the newly presented rejections above.

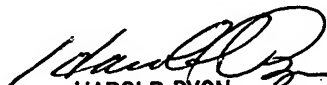
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 7:00-4:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patricia L. Nordmeyer  
Examiner  
Art Unit 1772

*pln*  
pln

  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
1772

11/17/05